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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of

Applicant(s) : Bhina R. Vijayendran et al.
Serial No. : 10/647,864
Filed : August 25, 2003
Title : **PROCESS OF MAKING A CELLULOSIC FIBER COMPOSITE**
Docket No. : BAT 0033 VA/12755 DIV1
Examiner : Leo B. Tentoni
Art Unit : 1732
Confirm. No. : 3693

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

EFS Web Electronic Submission
July 11, 2007

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicant requests review of the final rejection mailed April 13, 2007, in the above-identified application. No amendments are being filed with this Request. This Request is being filed with a Notice of Appeal. Review is requested for the reasons stated below.

Claims 1-43 are pending. All of the claims are rejected under 35 U.S.C. § 103(a) over Riebel in combination with Young. No amendments were filed after final rejection.

Riebel discloses a fiber-reinforced protein-based biocomposite particulate material containing a legume-based thermosetting resin and cellulosic material, and rigid biocomposite pressure-formed materials produced therefrom. Abstract.

Applicants' claims are directed to a method of using protein hydrolysates in the manufacture of agricultural and other cellulosic fiber composites. The method includes "mixing a protein hydrolysate with a synthetic resin . . . to produce a resin binder" and "mixing the resin binder with a cellulosic material to form a cellulosic material/resin binder blend."

Although Riebel uses both a legume-based resin and a secondary thermosetting binder in some embodiments, the legume-based resin and the secondary thermosetting binder are not mixed together. Rather, the *legume-based resin* is prepared and combined with *cellulosic material* having a moisture content of about 55-75%, the particles are dried, and fused into a rigid pressure-formed

material by pressing the dry biocomposite. If a secondary thermosetting resin is to be included, the *dried particles* of the legume-based resin and the cellulosic material are coated with *secondary thermosetting binder* prior to being fused. See Reibel, col. 3, lines 47-64; col. 11, line 64 to col. 12, line 9; col. 14, lines 21-34; col. 19, lines 31-47; Tables I, V, VI; Examples 7 and 8; Figs. 3 and 4; Response After Final Rejection of June 13, 2007, p. 2, lines 7-15; p. 3, line 23 to p. 4, line 19; and Amendment of January 31, 2007, p. 9, line 10 to p. 10, line 20.

According to the Office Action, “Riebel et al does teach mixing a protein hydrolysate with a synthetic resin (see col. 11, line 64 to col. 12, line 17; col. 15, lines 15-20; col. 16, lines 39-51 of Riebel et al).” See Office Action of April 13, 2007, p. 3, number 5.

However, none of the sections cited in the Office Action describes combining the legume-based resin with the secondary thermosetting binder. See Reibel, col. 11, line 64 to col. 12, line 17; col. 15, lines 15-20; col. 16, lines 39-51; Response After Final Rejection of June 13, 2007, p. 2, line 18 to p. 3, line 22.

Prior art references must be considered in their entirety, i.e., as a whole, including portions that would lead away from the claimed invention. MPEP 2141.02 and 2145. Riebel teaches away from mixing the secondary thermosetting resin with the legume-based resin. See Response After Final Rejection of June 13, 2007, p. 4, line 20 to p. 5, line 1; and Amendment of January 31, 2007, p. 10, line 21 to p. 11, line 3.

Young is cited as teaching the step of felting. Young does not remedy the deficiencies of Riebel.

Therefore, claims 1-43 would not have been obvious to one having ordinary skill in the art at the time the invention was made over Riebel in combination with Young.

Conclusion

For all of the above reasons, applicant respectfully requests that the rejection of claims 1-43 be withdrawn, and the claims be allowed.

Respectfully submitted,
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